

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

DAYMEYAN BURTON,

Plaintiff,

v.

C/O ROHAN, et al.,

Defendants.

Case No.: 2:22-cv-01087-GMN-VCF

**ORDER**

**I. DISCUSSION**

On September 29, 2022, the Court issued a screening allowing one of Plaintiff's claims to proceed and dismissing other claims without prejudice and with leave to amend. (ECF No. 7.) Plaintiff has filed a second amended complaint. (ECF No. 9.) But the second amended complaint appears to be missing pages. The second amended complaint does not include a signature page attesting that the complaint is filed under penalty of perjury and stating Plaintiff's requests for relief. (*Id.*) Furthermore, Count III refers to Plaintiff's allegations in Counts I and II, but the second amended complaint does not include Count II. (*Id.*) It appears that, due to an accident, portions second amended complaint were not filed. Accordingly, the Court will grant an extension for Plaintiff to file a complete second amended complaint.

The Court reminds Plaintiff that a second amended complaint supersedes (replaces) the original complaint, and any previously filed amended complaints, and, thus, any second amended complaint must be complete in itself. *See Hal Roach Studios, Inc. v. Richard Feiner & Co., Inc.*, 896 F.2d 1542, 1546 (9th Cir. 1989) (holding that "[t]he fact that a party was named in the original complaint is irrelevant; an amended pleading supersedes the original"); *see also Lacey v. Maricopa Cnty.*, 693 F.3d 896, 928 (9th Cir. 2012) (holding that for claims dismissed with prejudice, a plaintiff is not required to reallege such claims in a subsequent amended complaint to preserve them for appeal). If Plaintiff chooses to file a second amended complaint, it must contain all claims,

1 defendants, and factual allegations that Plaintiff wishes to pursue in this lawsuit.  
2 Moreover, Plaintiff should file the second amended complaint on this Court's approved  
3 prisoner civil rights form, and it must be entitled "Second Amended Complaint."

4 The Court grants Plaintiff an extension until January 13, 2023, to file any second  
5 amended complaint. If Plaintiff does not file a second amended complaint by January 13,  
6 2023, this action will proceed only on Plaintiff's claim of deliberate indifference to unsafe  
7 prison conditions against Defendant Rohan, as determined by the Court's screening  
8 order. (ECF No. 7 at 9.)

9 **I. CONCLUSION**

10 For the foregoing reasons, it is ordered that, if Plaintiff chooses to file a second  
11 amended complaint curing the deficiencies of the first amended complaint, as outlined in  
12 the court's screening order, Plaintiff will file the second on or before January 13, 2023.

13 It is further ordered that the Clerk of the Court will send to Plaintiff the approved  
14 form for filing a § 1983 complaint and instructions for the same, and a copy of the second  
15 amended complaint (ECF No. 9). If Plaintiff chooses to file a second amended complaint,  
16 he should use the approved form and he will write the words "Second Amended" above  
17 the words "Civil Rights Complaint" in the caption.

18 It is further ordered that, if Plaintiff chooses not to file a second amended complaint,  
19 this action will proceed only on Plaintiff's claim of deliberate indifference to unsafe prison  
20 conditions against Defendant Rohan, as determined in the Court's screening order.

21 DATED THIS 7<sup>th</sup>  
22 day of December 2022.

23   
24 \_\_\_\_\_  
25 United States Magistrate Judge  
26  
27  
28